

Office of the Secretary, HUD

§ 28.10

§ 28.5 Definitions.

The terms *ALJ* and *HUD* are defined in 24 CFR part 5.

Benefit means anything of value, including, but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan insurance or guarantee.

Claim means any request, demand, or submission:

(1) Made to HUD for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from HUD, or to a party to a contract with HUD, for property or services provided by the U.S. Government, purchased with Government funds, or for which the Government will reimburse the recipient or party; or

(3) Made to HUD that has the effect of decreasing an obligation to pay or account for property, services, or money.

Knows or has reason to know means that a person has actual knowledge that a claim or statement is false, fictitious, or fraudulent; acts in deliberate ignorance of the truth or falsity of the claim or statement; or acts in reckless disregard of the truth or falsity of the claim or statement.

Person means any individual, partnership, corporation, association, private organization, or entity.

Respondent means any person alleged to be liable for a civil penalty or assessment under § 28.25.

Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made:

(1) With respect to a claim, to obtain approval or payment of a claim, or relating to eligibility to make a claim; or

(2) With respect to or relating to eligibility for a contract, bid, or proposal for a contract with; or a grant or cooperative agreement, loan, or benefit from; HUD, any State, any political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under the contract or the grant or cooperative agreement, loan, or benefit, or if the Government will reim-

burse the State, political subdivision, or party for any portion of the money or property under the contract or for the grant or cooperative agreement, loan, or benefit.

§ 28.10 Basis for civil penalties and assessments.

(a) *Claims.* (1) A civil penalty of not more than \$5,500 may be imposed upon a person who makes a claim that the person knows or has reason to know:

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by a written statement that either contains a material fact that is false, fictitious, or fraudulent; or omits a material fact that the person has a duty to include and is false, fictitious, or fraudulent as a result of the omission; or

(iii) Is for payment for the provision of property or services that the person has not provided as claimed.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to HUD, to a recipient, or to a party when the claim actually is made to an agent, fiscal intermediary, or other entity, including any State or political subdivision of a State, acting for or on behalf of HUD, the recipient, or the party.

(4) Each claim for property, services, or money is subject to a civil penalty without regard to whether the property, services, or money actually is delivered or paid.

(5) Liability under this part shall not lie if the amount of money or value of property or services claimed exceeds \$150,000 as to each claim that a person submits. For purposes of paragraph (a) of this section, a group of claims submitted simultaneously as part of a single transaction shall be considered a single claim.

(6) If the Government has made any payment, transferred property, or provided services on a claim, then the Government may assess a person found liable up to twice the amount of the claim or portion of the claim that is determined to be in violation of paragraph (a)(1) of this section.